



PUBLIC NOTICE

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Tentative Digital Channel Designations for Stations Participating in the Second Round of DTV Channel Elections and Third Round Election Filing Deadline

In the *Second DTV Periodic Review Report and Order*,¹ the Commission adopted a multi-step channel election process for full-power television broadcast licensees and permittees (hereinafter “licensees”) to select their ultimate DTV channel inside the core TV spectrum (*i.e.*, channels 2-51). At the completion of the First Round, 1,713 licensees received tentative channel designations based upon their First Round channel elections.² The deadline for licensees to make Second Round elections was October 31, 2005. The Commission received 81 channel election applications which were filed on FCC Form 384, Digital Channel Election Form Second Round Election.

In this Public Notice we announce 75 tentative channel designations based upon these Second Round channel elections. This list includes stations that elected channels which would not result in impermissible interference to other stations, stations that have successfully resolved interference conflicts, stations that participated in negotiated channel arrangements (NCAs), and stations which requested that the Commission determine the “best available” channel for post-transition use. The call sign and tentative DTV channel designation for each of these licensees is set forth in Attachment I. Tentative channel designations in the relevant border zones are subject to appropriate international coordination.

We also announce the tentative channel designation for KTRK-TV, Houston, Texas, which requested, but did not receive, a tentative channel designation in the First Round.³ In addition, the *October 4, 2005 Public Notice* incorrectly listed the tentative channel designation for KJZZ-TV, Salt Lake City, Utah, and WUNL-TV, Winston-Salem, North Carolina. We correct those errors to specify Channel 46 for KJZZ-TV and Channel 32 for WUNL-TV. Finally, two stations that have only NTSC channels had indicated in the first round that they would participate in the second round, but did not submit a second round application. We have determined that their NTSC channels have no interference conflicts and have

¹ *Second Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*, 19 FCC Rcd 18,279 (2004).

² *Public Notice, Tentative Digital Channel Designations for Stations Participating in the First Round of DTV Channel Elections and Second Round Election Filing Deadline*, DA 05-2649 (released October 4, 2005) (“*October 4, 2005 Public Notice*”).

³ KTRK Television, Inc., the licensee of KTRK-TV, did not receive its First Round conflict letter until shortly before we announced the commencement of the Second Round. The licensee has since submitted an amendment to its channel election form resolving the interference issues identified in its conflict letter.

included them as tentative channel designations in Attachment I for KCPM, Grand Forks, North Dakota, channel 27 and KWBZ-TV, Wolfforth, Texas, channel 22.⁴

Negotiated Channel Arrangements. By Public Notice released November 23, 2005,⁵ the Media Bureau released a list of the ten stations participating in two NCAs in the Philadelphia, Pennsylvania and San Francisco, California areas. Parties objecting or commenting on those NCAs were required to file their pleadings no later than December 14, 2005. No objections were filed to the Philadelphia NCA. We performed an engineering analysis for each proposed channel election to determine whether implementation of the NCA would result in impermissible interference to another station, and found that the Philadelphia NCA is consistent with the procedures adopted by the Commission in the *Second Periodic Review* and with the public interest. Accordingly, the Philadelphia NCA is approved as submitted.

With respect to the California NCA, the Video Division sent conflict letters to three of the six parties to the agreement: Ackerly Broadcasting Operations, LLC, the licensee of KFTY, Santa Rosa; KVIE, Inc., the permittee of KVIE, Sacramento; and Telefutera Sacramento LLC, the licensee of KTFK-TV, Stockton. In response to their conflict letters, the Santa Rosa and Sacramento licensees elected their contingent channels, which fully comply with the channel election procedures.⁶ Thus, we can approve the Santa Rosa and Sacramento channel elections, as well as the channel elections of the three other licensees that were part of the NCA.⁷

The third station that received a conflict letter, however, will not receive a tentative channel designation in Round Two. KTFK-TV amended its proposed facilities in response to a deficiency letter from the staff.⁸ We have examined the amended proposal and conclude that KTFK-TV's proposed technical operating facilities would impermissibly change the station's geographic coverage area and violate the freeze imposed in connection with the DTV channel election and repacking process.⁹ Accordingly, we

⁴ In this regard, we note that the instructions for Form 382, the channel election form for Round One, as well as the instructions for Form 384, the channel election form for Round Two, explained that the Commission would assign channels for licensees that do not submit channel election forms by the required deadlines. See Form 382 and 384, General Instructions B.

⁵ *Second Round DTV Channel Election Issues – Proposed Negotiated Channel Arrangements and Procedures for Filing Associated Pleadings*, DA 05-3031 (released November 23, 2005).

⁶ Broadland Properties, Inc., licensee of Class A television station KAXT-CA, Channel 22, Santa Clara/ San Jose, California, and Rural California Broadcasting Corporation, the licensee of KRCB(TV), Channel *22, Cotati, California, filed objections to Ackerly's election of DTV channel 22. Because Ackerly amended to elect its contingent channel 32 in the conflict round, these objections are dismissed as moot. The Northern California Educational Television Association also objected to KVIE's election of DTV channel 9. Because KVIE amended to elect its contingent channel 6 in the conflict round, this objection also is dismissed as moot.

⁷ These are: Young Broadcasting of San Francisco, Inc., licensee of KRON-TV, San Francisco; KTVU Partnership, licensee of KTVU, Oakland; and KTNC License, LLC, permittee of KTNC-TV, Concord.

⁸ The staff informed the licensee that the proposal was defective in that it would withdraw service from approximately one third of the geographic area presently served by its certified digital facilities, and also increase the station's technical operating facilities to serve a larger coverage area.

⁹ *Public Notice, Freeze on the Filing of Certain TV and DTV Requests for Allotment or Service Area Changes*, DA 04-2446 (released August 3, 2004).

cannot approve KTFK-TV's channel election request. Since KTFK-TV does not have a tentative channel designation, it will proceed to the Third Round.

General Conflict Round. In addition to the three California stations discussed above, the Video Division notified an additional 26 licensees by letters dated February 1 and 2, 2006 that the Commission's engineering analyses indicated that the licensees' proposed digital operation on their elected channels would result in impermissible interference to one or more stations. Twenty three of these licensees have successfully resolved their interference conflicts and, as a result, receive a tentative channel designation on the channel they elected in the Second Round.

One of the 23 stations to receive a tentative channel designation – WHNT-TV, channel 59, Huntsville, Alabama – warrants further discussion. ETC Communications, Inc., the permittee of WYLE, Florence, Alabama, and WDBB-TV, Inc., the permittee of WDBB, Bessemer, Alabama, object to the channel election filed by New York Times Management Services (NYTMS) for station WHNT-TV. By way of background, NYTMS elected its in-core NTSC channel 19 in the First Round, but was unable to resolve interference conflicts with WYLE and WDBB. In the Second Round, NYTMS again elected its in-core NTSC channel, acknowledging that its proposal would cause interference to 1.3% and 6.1% of the population within the authorized protected contours of WDBB and WYLE, respectively. In response to its Second Round conflict letter, NYTMS filed an amendment to reduce power. We conclude that this amendment resolves the interference issues,¹⁰ and will give NYTMS a tentative channel designation on channel 19.

The three stations that did not resolve their identified interference conflict are: KRCA License Corp., the permittee of KRCA, Riverside, California; EBC Syracuse, Inc., the permittee of WNYI, Ithaca, New York; and WTVA, Inc., the permittee of WTVA, Tupelo, Mississippi. Each of these stations amended their proposed facilities in response to Second Round conflict letters. We have determined, however, that the amended proposed facilities would still cause more than 0.1% interference to other DTV stations.¹¹ Accordingly, we cannot approve their channel elections and they will proceed to the Third Round.

Best Available Channel. In the Second Round election and conflict rounds seven licensees requested that the Commission determine a "best available" channel for them at full replication facilities.¹² In order to choose a "best available" channel for these stations, we performed engineering analyses with two objectives in mind: (1) providing each station with replication facilities, and (2) minimizing interference to other DTV tentative channel designations. The "best available" channels for these seven licensees are

¹⁰ An interference conflict exists when it is determined that existing interference would be increased to more than 0.1% of the population within a station's protected contour. *Second Periodic Review*, 19 FCC Rcd at 18302. With respect to stations such as WHNT-TV with out-of-core DTV channels that are seeking to elect their in-core NTSC channels, the Commission stated that it would permit these stations to exceed the 0.1% interference standard "on a limited basis." *Id.* The interference predicted to be caused by the amended proposed facilities falls within the guidelines established in this proceeding. See *DTV Channel Election: First Round Conflict Decision Extension and Guidelines for Interference Conflict Analysis*, 20 FCC Rcd 13415 (2005). At the reduced power level proposed by NYTMS in its amendment, WHNT-TV will meet the "limited basis" guideline because (1) it will cause less than 2.0% interference, and (2) it would have caused more interference to both WDBB and WYLE from its replication facilities.

¹¹ Unlike WHNT-TV discussed above, these stations are not electing their in-core NTSC channel and thus, are subject to the 0.1% interference standard.

¹² See *Second Periodic Review*, 19 FCC Rcd at 18303.

as follows: channel 45 for KOTV, Tulsa, Oklahoma;¹³ channel 46 for WCCV-TV, Arecibo, Puerto Rico; channel 30 for WDWL, Bayamon, Puerto Rico; channel 18 for WECN, Naranjito, Puerto Rico; channel 22 for WOST, Mayaguez, Puerto Rico; channel 48 for WUJA, Caguas, Puerto Rico; and channel 43 for WIPR-TV, San Juan, Puerto Rico.

In determining “best available” channels for these licensees, we were unable to comply with Section 73.623(c)(5) of the Commission’s rules,¹⁴ which specifies protection requirements for Class A television stations, with respect to Class A television stations KUTU-CA, Tulsa, Oklahoma and WQSJ-CA, Quebradillas, Puerto Rico. Section 336(f)(1)(D) of the Communications Act, however, provides that if, after granting Class A status to a qualifying low power television station:

technical problems arise requiring an engineering solution to a full-power station’s allotted parameters of channel assignment in the digital Table of Allotments, the Commission shall make such modifications as necessary –

- (i) to ensure replication of the full-power digital television applicants service area, as provided in sections 73.622 and 73.623 of the Commission’s regulations . . . ; and
- (ii) to permit maximization of a full-power digital television applicant’s service area consistent with such sections 73.622 and 73.623

None of these seven DTV stations has an in-core DTV channel, so for each one, the “best available” channel we have selected constitutes an engineering solution to a technical problem, consistent with Section 336(f)(1)(D). To the extent Class A stations KUTA-CA and WQSJ-CA receive interference as a consequence of the final channel selection process, we note that they are eligible to file displacement applications pursuant to Section 73.3572(a)(4)(iii) of the rules.¹⁵

The Third Round of Elections. All licensees “that were not ‘locked in’ at tentative channel designations in the previous two rounds”¹⁶ should make a channel election by filing FCC Form 386, Third Round Election Form. In addition, licensees that have received a tentative channel designation for a low VHF channel (*i.e.*, channels 2 through 6), or a channel subject to international coordination issues, may use this form to seek an alternative channel designation.¹⁷ No other licensees with an elected (and “locked in”) channel will be permitted to participate in the Third Round. In that regard, we note that the channel elections of two stations – (1) WABC-TV, New York, New York, NTSC channel 7, DTV channel 45, and

¹³ Griffin Licensing, L.L.C. initially elected channel 19 in the Second Round. After receiving a conflict letter, Griffin amended to specify “best available” channel.

¹⁴ 47 C.F.R. § 73.623(c)(5).

¹⁵ See 47 C.F.R. § 73.3572(a)(4)(iii).

¹⁶ *Second Periodic Review*, 19 FCC Rcd at 18304. We note that, because these licensees initially elected one of their allotted channels and have not yet received a tentative channel designation, we do not consider these channels as having been released. Accordingly, other licensees participating in the Third Round may not elect these channels unless they enter into an NCA with WABC-TV or WEDH.

¹⁷ Licensees should consult Appendix I from the *October 4, 2005 Public Notice* and Attachment I hereto in order to determine which channels are “locked in” (and thus not available for election in Round Three). We intend to release a consolidated list of tentative channel designations in the near future.

(2) WEDH, Hartford, Connecticut, NTSC channel *24, DTV channel *32 – remain pending (and are thus not “locked in”).¹⁸

FCC Form 386, Third Round Election Form can be accessed from the FCC’s website at www.fcc.gov and is now available for electronic filing. FCC Form 386 must be filed with the FCC no later than May 26, 2006. As described in paragraphs 62-64 of the *Second Periodic Review* and on FCC Form 386, licensees should elect an available in-core channel (*i.e.*, channels 2-51) for their ultimate digital channel by selecting item 2.a. or request that the Commission determine a “best available” channel for them at full replication facilities by selecting item 2.c. Parties to an NCA must indicate their participation in an NCA by selecting 2.b. and must complete Schedule A in Section II of FCC Form 386. We remind licensees that do not have tentative channel designations (or elections pending from previous rounds) and do not submit FCC Form 386 that we will select a “best available” channel on their behalf.¹⁹

There is no conflict resolution round in the Third Round channel elections. Instead, in the event of a conflict, we will determine on a case-by-case basis what channel best replicates a station’s service area while minimizing new interference to other stations.²⁰ We also will consider such factors as: (1) whether the station was an early adopter of DTV technology; (2) the impact on the public’s access to DTV services; (3) whether one or both of the station’s channels is/are in the low VHF band, which might weigh in favor of that station receiving priority; (4) whether there are international coordination problems; (5) the existence of any zoning, environmental or other such issues; and (6) any other factors that may be relevant at the time.²¹ The Bureau will issue a public notice specifying the tentative channel designations for all licensees at the conclusion of Round Three.²²

For additional information, contact Joyce Bernstein or Nazifa Sawez of the Video Division, Media Bureau, at (202) 418-1647 or (202) 418-7059, or at joyce.bernstein@fcc.gov or nazifa.sawez@fcc.gov. TTY: (202) 418-7172.

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¹⁸ See *October 4, 2005 Public Notice*.

¹⁹ See footnote 4, *supra*.

²⁰ *Second Periodic Review*, 19 FCC Rcd at para 64.

²¹ *Id.*

²² After completion of the Third Round, the Commission will issue a Notice of Proposed Rulemaking to propose a new DTV Table of Allotments as the seventh step of its channel election and repacking process. During this step, the Commission will consider the tentative channel designations established through the first six steps, “as well as on our evaluation of overall spectrum efficiency and providing the best service to the public, including service to local communities.” *Second Periodic Review*, 19 FCC Rcd at 18307.